

Exhibit 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

September 23, 2022

9:32 a.m.

Deposition of BLAKE GOPNIK, held at the offices of Baker & Hostetler LLP, 45 Rockefeller Plaza, New York, New York, pursuant to subpoena, before Laurie A. Collins, a Registered Professional Reporter and Notary Public of the State of New York.

1 | Gopnik

2 and then counsel may proceed.

3 | B L A K E G O P N I K ,

7 EXAMINATION BY

8 MR. FERGUSON:

9 Q. Good morning. Can you please state
10 your full name for the record?

09:34:13

11 A. Blake Gopnik.

12 Q. Dr. Gopnik, have you been deposed
13 before?

14 A. No.

15 Q. Have you ever testified in court
16 before?

09:34:23

17 A No

18 Q. Do you have an understanding of what's
19 going to be taking place at this deposition today?

20 A. I believe I do.

09:34:33

21 Q. And is that understanding based on
22 information provided to you in conversation with
23 the counsel representing you today?

24 A. Yes.

25 Q. I'm just going to review a few ground

09:34:44

1 Gopnik

2 MR. SPRIGMAN: Objection.

3 A. No.

4 Q. Do they contain any statistical
5 analysis conducted by you?

10:09:16

6 MR. SPRIGMAN: Objection.

7 A. No.

8 Q. Could you give me an estimate of from
9 2012 to the present how many articles you've
10 written for The New York Times?

10:09:31

11 A. I would guess it's between 50 and 75.

12 Q. That's total?

13 A. Yes.

14 Q. And as we've discussed, you've also
15 written a book on -- a biography of Andy Warhol
16 is that correct?

10:09:59

17 A. That is correct.

18 Q. In that biography did you at anyplace
19 define markets and submarkets using the approach
20 used by economists?

10:10:30

21 MR. SPRIGMAN: Objection.

22 A No

23 Q. Did you conduct any statistical
24 analysis in that biography?

25 MR. SPRIGMAN: Objection.

10:10:26

1 Gopnik

2 A. No.

3 Q. And you are currently writing a book
4 about Albert Barnes; is that correct?

5 A. That is correct.

10:10:38

6 Q. And who is Albert Barnes?

7 A. Albert Barnes is a great Philadelphia
8 collector of the early twentieth century.

9 Q. His collection is now found in the
10 Barnes Museum?

10:10:53

11 A. The Barnes Foundation, correct.

12 Q. At what stage are you in writing that
13 biography?

14 MR. SPRIGMAN: Objection.

15 A. I've completed four chapters in draft.

16 Q. As part of what you've drafted so far,
17 have you done any identification of markets and
18 submarkets as those terms are used by economists?

19 MR. SPRIGMAN: Objection.

20 A. I have not.
21 Q. Do you have any plans to do so as part
22 of the book?

23 MR. SPRIGMAN: Objection for the same
24 reason.

A. Not currently.

1 Gopnik

2 Q. Referring back to your -- the body of
3 your expert report, can you look at page 2,
4 paragraph number 3?

5 MR. SPRIGMAN: Paragraph number 3 10:12:25
6 begins on number 1.

7 MR. FERGUSON: Oh, paragraph 5. I'm
8 sorry, page 2, paragraph 5.

9 A. Yes.

10 Q. In this paragraph you refer to the 10:12:37
11 Spritmuseum -- am I pronouncing that correctly?
12 How would you pronounce that?

13 A. I'm not Swedish, so I would pronounce
14 it the same way you do.

15 Q. In this paragraph you refer to the 10:12:53
16 Spritmuseum in Stockholm, Sweden, commissioning
17 you to curate an exhibit in 2024; is that correct?

18 A. That is correct.

19 Q. Does this exhibit have a title at this
20 time?

21 A. Not a formal title, no.

22 Q. Does it have a working title or
23 informal title?

24 A. I believe only in my mind, yes.

25 O. What's that title? 10:13:20

1 | Gopnik

2 A. That would be something like Andy
3 Warhol and business art.

4 Q. What are your responsibilities as the
5 curator of this exhibition?

6 A. To conceptualize the exhibition, decide
7 on its scope and its goals; choose the artists and
8 exhibits -- artists living and dead and exhibits
9 that will be included in the exhibition; provide
10 the explanatory material for the exhibition; oh, 10:14:01
11 and, I'm sorry, and write the exhibition catalog
12 essay.

13 Q. Is the Spritmuseum paying you for this
14 work?

15 A. It is. 10:14:20

16 Q. Have there been any other occasions
17 where you have been commissioned as a curator for
18 an exhibit?

19 A. No.

20 Q. I'd like to show you what has been 10:14:36
21 marked as Exhibit 180

22 (Exhibit 180, document re exhibition at
23 Spritmuseum, Bates-stamped Gopnik 000001,
24 marked for identification.)

25 Q It has a Bates stamp on it, which is a 10:14:51

1 Gopnik

2 number lawyers put on documents to help keep track
3 of documents, Gopnik_000001. And this was a
4 document produced by the counsel representing you
5 in this litigation.

10:15:12

6 Is this a document that you provided to
7 counsel?

8 A. Yes.

9 Q. What is this document?

10 A. This is a document outlining the scope 10:15:17
11 of the exhibition -- or not really the scope of
12 the exhibition but its goals.

13 Q. Is this document prepared by you?

14 A. Yes.

Q. Why did you prepare this document? 10:15:33

16 A. I prepared it to provide to Spritmuseum
17 to give them a better sense of what I'd be doing
18 in my exhibition.

19 Q. Have you provided it to them?

20 A. Yes. 10:15:45

21 Q. Do you have a primary contact at the
22 Spritmuseum with respect to the exhibition or are
23 there several people that you're dealing with?

24 A. There is a primary contact.

25 Q. Who's your primary contact? 10:15:53

1 Gopnik

2 A. A Mia Sundberg; S-U-N-D-E-R-G, first
3 name Mia, M-I-A.

4 Q. Do you have an understanding of the
5 role of Ms. Sunderberg [sic] at the museum?

6 A. I don't know her title, but she is -- I
7 think you'd call her the administrator or
8 administrative curator, perhaps.

9 Q. Have you provided the document we've
10 marked as Exhibit 180 to Ms. Sunderberg?

11 A. Sundberg, yes, I have.

12 O. Sundberg. You have.

13 And is she -- how did you provide it to
14 her?

15 MR. SPRIGMAN: Objection.

16 A. By e-mail.

17 Q. Did she have any comment on it?

18 A. I believe she said this is excellent or
19 something to that effect.

20 Q. Have you had any other communication
21 with Ms. Sundberg regarding your plans for the
22 exhibition?

23 A. Yes.

24 Q. How often have those communications
25 taken place?

1 Gopnik

2 MR. SPRIGMAN: Objection.

3 A. Approximately once every week or two.

4 Q. In Exhibit 180 you reference -- you
5 name several artists in this document; is that
6 correct?

10:17:42

7 A. That is correct.

8 Q. Are works from these artists in the
9 permanent collection of the Spritmuseum?

10 A. I don't know their permanent
11 collection, but not to my knowledge.

10:17:55

12 Q. Is it your understanding that these
13 works will need to be borrowed from other museums?

14 A. To the extent that those artists end up
15 in the final exhibition list, they would, yes.

10:18:11

16 Q. Or other collectors, someone else
17 holding the works of art?

18 A. That is correct. But this is not a
19 list of artists in the final exhibition.

20 Q. Have you made any efforts so far to
21 borrow works for the exhibit from museums or
22 collectors?

23 A. That would not be my role as curator of
24 the exhibition.

25 Q. You mentioned as part of your

10:18:55

1 Gopnik

2 preparation you spoke with Mr. Sprigman and
3 Mr. Millsaps; is that correct?

4 A. That is correct.

5 Q. And you're aware they are both
6 attorneys at Lex Lumina?

7 A. I am.

8 Q. Do you know if there are any other
9 attorneys affiliated with Lex Lumina?

10 A. Not to my knowledge.

11 Q. How long have you known Mr. Sprigman?

12 A. That's a good question. I think we had
13 correspondence possibly two or three years ago, I
14 believe.

15 0. What was the subject of your

16 correspondence with Mr. -- let me first ask the
17 question: The correspondence that you had with
18 Mr. Sprigman two or three years ago, did it relate
19 to you seeking or obtaining legal advice?

20 A No

21 Q. Did it relate to you being retained as
22 a consulting or testifying expert in a litigation?

23 A It did not

24 Q. What was the subject matter of that
25 correspondence?

1 Gopnik

2 A. I don't remember it exactly, but it
3 would have been when I was working on articles
4 about intellectual property in my work as an art
5 critic.

10:20:20

6 Q. What was the subject of these articles
7 that you just referred to?

8 A. Let me think for a minute, if I can
9 think back. I've often written articles about
10 Andy Warhol and copyright, so it would have been
11 in the context of such a thing, I believe.

10:20:35

12 Q. And did your communications with
13 Mr. Sprigman involve Andy Warhol's copyright
14 issues?

15 MR. SPRIGMAN: Objection.

10:21:05

A. I honestly don't remember exactly.

17 Q. What's your best recollection of those
18 communications?

19 A. My guess is that they would have done,
20 because that's normally -- I know that they were
21 about intellectual property. Whether they
22 involved Warhol specifically, I just can't
23 remember, I'm sorry.

24 Q. Okay. I'm going to caution you not to
25 guess. I don't want you to speculate. But you

10:21:28

1 Gopnik

2 can give me your best recollection and give me the
3 quality of the recollection.

4 In that last answer were you giving me
5 your best recollection?

6 A. Yes.

7 Q. After corresponding with Mr. -- in your
8 correspondence with Mr. Sprigman two or three
9 years ago, do you recall what you said to him and
10 what he said to you?

10 what he said to you? 10:22:01

11 MR. SPRIGMAN: Objection.

12 A. No.

13 Q. Since that correspondence two or three
14 years ago, what is the next time you had
15 communication with Mr. Sprigman?

16 A. In the course of writing articles about
17 intellectual property, I believe Mr. Sprigman
18 might have sent me an e-mail congratulating me on
19 an article, that kind of occasional contact
20 between us, yes.

21 Q. Do you recall a specific article he
22 congratulated you on?

23 A. I'm sorry, I don't.

24 Q. Do you recall any other contacts prior
25 to being engaged for this litigation where you and

C E R T I F I C A T E

STATE OF NEW YORK)

: ss .

COUNTY OF NEW YORK)

7 I, LAURIE A. COLLINS, a Registered
8 Professional Reporter and Notary Public
9 within and for the State of New York, do
10 hereby certify:

11 That BLAKE GOPNIK, the witness whose
12 deposition is hereinbefore set forth, was
13 duly sworn by me and that such deposition
14 is a true record of the testimony given by
15 the witness.

16 I further certify that I am not
17 related to any of the parties to this
18 action by blood or marriage and that I am
19 in no way interested in the outcome of this
20 matter.

21 IN WITNESS WHEREOF, I have hereunto
22 set my hand this 27th day of September
23 2022.

James A. Collins

LAURIE A. COLLINS, RPR